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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

MULCAIRE-JONES, George

Serial No.: 10/783,647

Filed: February 20, 2004

Confirmation No.: 7353

Atty. File No.: 50221-00002

For: "APPARATUS AND METHOD OF
FERTILITY AWARENESS"

) Group Art Unit: 3736

)
) Examiner: HOEKSTRA, Jeffrey Gerben

)
) **RESPONSE TO RESTRICTION AND**
) **SPECIES ELECTION REQUIREMENTS**

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON May 19, 2006.

MARSH FISCHMANN & BREYFOGLE LLP

BY: [Signature]
Lynn Pennywell

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits this paper in response to the Office Action mailed on April 21, 2006 relating to the above-identified patent application. Although Applicant believes no additional fees are due for filing this paper and that an extension of time is not required, please charge any fees deemed necessary, including fees required for an extension of time, if any, required to maintain the pendency of the present application, to Deposit Account No. 50-1419

In the Office Action the Examiner made a Restriction Requirement. Generally, the Examiner indicated that Claims 1-12 (Group I) and Claims 13-17 (Group II) were distinct inventions. Applicant hereby elects to prosecute Claims 13-17 (Group II) in this patent application. However, Applicant respectfully reserves the right to pursue Claims 1-12 (Group I) in one or more subsequent divisional/continuation applications.

In the Office Action, the Examiner also made a Species Election Requirement. Generally, the Examiner contends that the application includes claims directed to three patentably distinct species: Species (A) "ten bead type" embodiment; Species (B) "six bead type" embodiment; and Species (C) "mucus characterization" embodiment. Applicant respectfully traverses the Species Election Requirement and requests that the Species Election Requirement be reconsidered and withdrawn. Applicant traverses the Species Election Requirement because the Examiner has not clearly identified each of the disclosed species by figure number(s) or example(s) disclosed in the application, which is the preferred manner of identifying species where it is convenient to do so. See MPEP 809.02(a)(B).

Even though Applicant has traversed the Species Election Requirement, as required by 37 C.F.R. 1.143, Applicant provisionally elects to prosecute claims directed to Species (A) "ten bead type" embodiment in this application. Claims readable on Species (A) include claims 1-7 and 13-17. However, Applicant respectfully reserves the right to pursue claims directed to Species (B) and Species (C) in one or more subsequent divisional/continuation applications.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: May 19, 2006

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